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EXAMINER

HARRIS, STEPHANIE N

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| ART UNIT | PAPER NUMBER |
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3636

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/888,582

Applicant(s)

KELLY ET AL.

Examiner

Stephanie N. Harris

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The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Objections

Claim 10 is objected to because of the following informalities: The phrase "left and hub assemblies". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10, 19, 20, and 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "support surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 19, the term "wire-like " is indefinite because it is unclear what characteristics of a "wire" the structure is "like".

Regarding claims 20 and 22, the term "serpentine-like " is indefinite because it is unclear what characteristics of a "serpentine" the structure is "like".

Claim 23 recites the limitation "left and right ends" in lines 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 23 and 24 recites the limitations "the base" in line 1. There is insufficient antecedent basis for this limitation in the claim.

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Claim 24 recites the limitation "seat back portion" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-18, 20, 21, 23, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Nelson (USPN 4674795).

Regarding claims 16-18, 20, 21, 23, and 26, Nelson discloses a first frame (16) that includes a seat back portion, left and right ends (14) and a bend formed between the seat back portion and each of the left and right ends as seen in Figure 10. A second frame (22) with left and right portions is pivotally coupled to the first frame (16) by engagement with the bends located by eyelets (42) as seen in Figure 4. The second frame (22) is engaged with the bends by eyelets (42) formed at the left and right portions of the second frame (22). The second frame (22) is rotatable about the bends between a deployed position where the second frame is angularly spaced from the first frame as seen in Figure 4, and a folded position in which the second frame is substantially coplanar with the first frame as seen in Figure 14. The bends are serpentine bends at the top of the first frame (16). The first frame (16) is a unitary frame as seen in Figure 13. The child seat (34) can be used as a child bouncer seat.

Regarding claim 20, the seat back portion defines a plane substantially corresponding to a seating surface. The serpentine bends include a first, second, and third section. The second section extends forwardly from the seat back portion plane and is disposed between the first and third sections at the top of the first frame (16). The first and third sections extend approximately parallel to the seat back portion plane located by element (14). The first and second sections support the second frame (22) as a cantilever in the deployed position by use of the eyelet (42). The second frame is rotated about the second section when the second frame (22) is in the folded position as seen in Figure 10.

Regarding claims 21 and 23, the second frame (22) is engaged with the bends by eyelets formed at the second frame left and right portions. A ground engaging base (12) is coupled to the left and right ends of the first frame (16) as seen in Figures 4 and 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (USPN 5507564) in view of Griffin (USPN 4266807).

Huang discloses a frame assembly for a child bouncer seat with an upper frame (51) with left and right ends, a left and right hub assembly (31), and a lower frame (30) with left and right members as seen in Figure 2. The hub assemblies include a first receptacle (10) coupled to the left and right ends and a second receptacle (31) as seen in Figure 3. The frame assembly is shown in a disassembled configuration in Figures 1-8. The assembled configuration comprises the frame and fabric that is placed over the frame (Col. 1, lines 16-18).

Regarding claim 6, the frame assembly is adapted for use on a support surface. The hub assemblies are rigid relative to the lower frame as seen in Figure 2. A portion of the left and right members is elevated from the support surface via bend in the lower

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frame as seen in Figure 2, to be displaceable relative to the hub assemblies. The elevated portion defines a flexural member that can provide a bouncing motion .

Regarding claims 8 and 9, the lower frame (30) pivots between an unfolded position where the lower frame is angularly displaced from the upper frame and a folded position where the lower frame lies substantially coplanar with the upper frame as seen in Figures 2 and 8. The lower frame can be angularly displaced from the upper frame and corresponds to a rotational displacement about a first axis. The left and right hub assemblies can be positioned between at least a first and second orientation. The first orientation can correspond to the first receptacle being rotationally offset from the second receptacle (Col. 3, lines 1-5). The rotational offset can be measured relative to the first axis. When the lower frame is in an unfolded position the left and right hub assemblies are in the first orientation and when the lower frame is in the folded position the left and right hub assemblies are in the second orientation as seen in Figures 2 and 8.

Regarding claims 10 and 11, the left hub assembly is disposed adjacent to the support surface as seen in Figure 2. An intermediate frame (14) is coupled to the upper frame as seen in Figure 2.

Regarding claims 13 and 14, the hub assemblies include a first and second housing. The first housing includes a first gear surface (14), a button (40), and the first receptacle shown by element 11, as seen in Figure 3. The second housing includes a second gear surface (33) and a second receptacle shown by element (30), as seen in Figure 3. The first and second gear surfaces are circular in shape and include radially

extending teeth. The gear teeth are engageable with each of the first and second gear surfaces. The button engages the gear via a spring (45). The button and the gear can be displaceable relative to the first and second housings to disengage the gear from one of the first and second gear surfaces so that the first housing is rotatable relative to the second housing.

Regarding claim 15, the upper frame describes a seat support adapted to receive a seating surface. The left and right ends extend forwardly and outwardly from the seating area. The left and right members extend rearwardly and inwardly from the second receptacles as seen in Figure 2.

Huang shows all of the teachings of the claimed invention but fails to show that the left and right members are L-shaped and the use of a pivot connecting the rearward ends of the lower frame. Griffin discloses a lower frame (26) with a pivot (25) that connects the rearward ends with left and right members as seen in Figure 2. At least one of the left and right members can be rotatable about the pivot to allow the left and right members to be positionable between a first and second angular position as seen in Figures 2 and 3. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the lower frame of Huang by attaching the pivot, as shown by Griffin, so that the frame can be easily collapsed.

By attaching the pivot of Griffin to the left and right members as shown by Huang, this will create L-shaped members that have forward and rearward ends. The forward ends can be connected to the second receptacle. The forward end can be disconnected from the second receptacle in a disassembled configuration.

Regarding claims 3, 4, 5, and 7, the left and right L-shaped members would include a short and long leg. The short leg would extend from right to left and left to right. The long leg would extend forwardly from the short leg. The short legs have a first end proximate the long leg and a second end. The pivot would couple the left L-shaped member to the right L-shaped member through the second ends of the short legs. The pivot can be disposed equidistant from the left and right long legs. A first angular position can be formed when the left and right forward ends are spaced from each other and a second angular position is formed when the left and right forward ends are positioned adjacent to each other.

Claims 1, 2, 3, 4, 5, 6, 7, 11, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (USPN 6341816) in view of Griffin.

Chen et al. discloses a frame assembly for a child bouncer seat with an upper frame (10) with left and right ends, a left and right hub assembly (40, 40'), and a lower frame (203) with left and right members as seen in Figure 1. The hub assemblies include a first receptacle (4021) coupled to the left and right ends and a second receptacle (207) as seen in Figure 3. The frame assembly is shown in a disassembled configuration in Figure 4a. The assembled configuration comprises the frame and fabric that is placed over the frame as seen in Figure 2.

Regarding claim 6, the frame assembly is adapted for use on a support surface. The hub assemblies are rigid relative to the lower frame as seen in Figure 2. A portion of the left and right members is elevated from the support surface via a bend in the

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lower frame as seen in Figure 2, to be displaceable relative to the hub assemblies. The elevated portion defines a flexural member that can provide a bouncing motion .

Regarding claim 15, the upper frame describes a seat support adapted to receive a seating surface. The left and right ends of the upper frame (10) extend forwardly and outwardly from the seating area. The left and right members of the lower frame (203) extend rearwardly and inwardly from the second receptacles (207) as seen in Figure 2.

Regarding claims 11 and 12, an intermediate frame (30) is coupled to the upper frame via the hub assembly as seen in Figures 1 and 2. The intermediate frame is pivotable between a first position adjacent the upper frame and a second position angularly spaced from the upper frame (Col. 2, lines 58-65).

Chen et al. shows all of the teachings of the claimed invention but fails to show that the left and right members are L-shaped and the use of a pivot connecting the rearward ends of the lower frame. Griffin discloses a lower frame (26) with a pivot (25) that connects the rearward ends with left and right members as seen in Figure 2. At least one of the left and right members can be rotatable about the pivot to allow the left and right members to be positionable between a first and second angular position as seen in Figures 2 and 3. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the lower frame of Chen et al. by attaching the pivot, as shown by Griffin, so that the frame can be easily collapsed.

By attaching the pivot of Griffin to the left and right members as shown by Huang, this will create L-shaped members that have forward and rearward ends. The

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forward ends can be connected to the second receptacle. The forward end can be disconnected from the second receptacle in a disassembled configuration.

Regarding claims 3, 4, 5, and 7, the left and right L-shaped members would include a short and long leg. The short leg would extend from right to left and left to right. The long leg would extend forwardly from the short leg. The short legs have a first end proximate the long leg and a second end. The pivot would couple the left L-shaped member to the right L-shaped member through the second ends of the short legs. The pivot can be disposed equidistant from the left and right long legs. A first angular position can be formed when the left and right forward ends are spaced from each other and a second angular position is formed when the left and right forward ends are positioned adjacent to each other.

Claims 1-11, and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (USPN 5509721) in view of Griffin.

Regarding claim 1, Huang ('721) discloses a frame assembly for a child bouncer seat with an upper frame (40) with left and right ends, a left and right hub assembly (10), and a lower frame (30) with left and right members that have forward and rearward ends as seen in Figure 2. The left and right members of the lower frame have forward and rearward ends. The hub assemblies include a first receptacle (17) coupled to the left and right ends and a second receptacle located by element (13) as seen in Figure 2. The forward ends are connected to the second receptacle (13). The frame assembly is in a disassembled configuration when the upper frame (40) is removed (Col. 3, lines 20-

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26). The assembled configuration is shown in Figure 1 with the upper frame (40) attached.

Regarding claim 6, the frame assembly is adapted for use on a support surface. The hub assemblies are rigid relative to the lower frame as seen in Figure 2. A portion of the left and right members is elevated from the support surface via bend in the lower frame as seen in Figure 2, to be displaceable relative to the hub assemblies. The elevated portion defines a flexural member that can provide a bouncing motion.

Regarding claims 8 and 9, the lower frame (30) pivots between an unfolded position where the lower frame is angularly displaced from the upper frame and a folded position where the lower frame lies substantially coplanar with the upper frame as seen in Figures 2 and 7. The lower frame can be angularly displaced from the upper frame and corresponds to a rotational displacement about a first axis. The left and right hub assemblies can be positioned between at least a first and second orientation. The first orientation can correspond to the first receptacle being rotationally offset from the second receptacle. The rotational offset can be measured relative to the first axis. When the lower frame is in an unfolded position the left and right hub assemblies are in the first orientation and when the lower frame is in the folded position the left and right hub assemblies are in the second orientation as seen in Figures 2 and 8.

Regarding claims 10 and 11, the left and right hub assemblies are disposed adjacent to the support surface as seen in Figure 1. An intermediate frame (25) is coupled to the upper frame (40).

Huang ('721) shows all of the teachings of the claimed invention but fails to show that the left and right members are L-shaped and the use of a pivot connecting the rearward ends of the lower frame. Griffin discloses a lower frame (26) with a pivot (25) that connects the rearward ends with left and right members as seen in Figure 2. At least one of the left and right members can be rotatable about the pivot to allow the left and right members to be positionable between a first and second angular position as seen in Figures 2 and 3. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the lower frame of Huang ('721) by attaching the pivot, as shown by Griffin, so that the frame can be easily collapsed.

By attaching the pivot of Griffin to the left and right members as shown by Huang, this will create L-shaped members that have forward and rearward ends. The forward ends can be connected to the second receptacle. The forward end can be disconnected from the second receptacle in a disassembled configuration.

Regarding claims 3, 4, 5, and 7, the left and right L-shaped members would include a short and long leg. The short leg would extend from right to left and left to right. The long leg would extend forwardly from the short leg. The short legs have a first end proximate the long leg and a second end. The pivot would couple the left L-shaped member to the right L-shaped member through the second ends of the short legs. The pivot can be disposed equidistant from the left and right long legs. A first angular position can be formed when the left and right forward ends are spaced from each other and a second angular position is formed when the left and right forward ends are positioned adjacent to each other.

Regarding claim 27, Huang ('721) discloses a frame assembly with an upper frame (40) with left and right ends and a lower frame (30) with left and right members. The left and right members have a forwardly extending first section with a forward end located by element (31) as seen in Figure 1. The forward ends are connected to the left and right ends of the upper frame (40) via the hub assembly (10). The forward ends can be disconnected from the left and right ends by removing pin (14) as seen in Figure 2.

Huang ('721) shows all of the teachings of the claimed invention but fails to show the use of a second section with connected by a pivot coupling. Griffin discloses a lower frame (26) with a coupling (25) that connects the second sections as seen in Figure 2. At least one of the left and right members can be rotatable about the pivot to allow the left and right forward ends can be positionable between a first and second orientation as seen in Figures 2 and 3. The pivotal coupling between the second sections is formed by a pin on coupling (25) received within a cooperating hole as seen in Figure 2. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the lower frame of Huang ('721) by attaching the pivot, as shown by Griffin, so that the frame can be easily collapsed.

By attaching the coupling of Griffin to the left and right members as shown by Huang ('721), this will create L-shaped members that have first and second sections, wherein the second sections can be pivotally coupled to each other. The second sections will extend longitudinally between a first and second portion, and the second portions are connected to each other by the coupling (25) when the left and right members are in the first and second orientation. The forward ends can be positioned at

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a first distance from each other, and the second portions can be positioned at a third distance from each other. When the forward ends are positioned at a second distance from each other the second portions of the second sections are positioned at a fourth distance from each other and the third distance can be greater than the fourth distance.

The first sections can be connected to the second receptacle. The first section can be disconnected from the second receptacle in a disassembled configuration. When the frame assembly is in the assembled configuration the forward ends can be positioned at a first distance from each other and when the frame assembly is in the disassembled configuration the forward ends can be positioned at a second distance from each other.

Regarding claim 28, the left and right members of the lower frame are L-shaped and have a bend that is formed between the first and second sections as seen in Figure 1:

Regarding claim 32, Huang ('721) discloses the claimed invention except for upper frame and lower frame being made of tubular material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use tubular material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (USPN 4674795).

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Nelson discloses the claimed invention except for the use of wire like material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a wire like material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (USPN 4674795) in view of Huang ('721).

Nelson has been described above. Nelson shows all of the teachings of the claimed invention but fails to show the use of a left and right hub to connect the left and right ends of the first frame with left and right base portions. Huang ('721) discloses a base (30) that has left and right ends (33) that are pivotally coupled to the left and right ends of a first frame (24) by a left and right hub assembly (10) as seen in Figure 2. The left and right hubs (10) each have a first portion connected to the left and right ends of the first frame (24) and a second portion connected to the right and left base (30) portions as seen in Figure 2. The base (30) is displaceable relative to the seat back portion to position the base substantially co-planar with the seat back portion when the second frame (25) is in a folded position as seen in Figure 7. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the first frame and base of Nelson by attaching a hub assembly as shown by Huang ('721), in order to provide a foldable recliner that allows for ease of transport.

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Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang ('564) in view of Griffin.

Huang ('564) in view of Griffin discloses all of the claimed structure of the instant invention. Huang ('564) in view of Griffin lacks only the specifically recited method steps.

It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the child seat of Huang ('564) in view of Griffin by the claimed method steps. Such a modification provides a conventional and efficient method of using the device of Huang ('564) in view of Griffin.

Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang ('721) in view of Griffin.

Huang ('721) in view of Griffin discloses all of the claimed structure of the instant invention. Huang ('721) in view of Griffin lacks only the specifically recited method steps.

It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the child seat of Huang ('721) in view of Griffin by the claimed method steps. Such a modification provides a conventional and efficient method of using the device of Huang ('721) in view of Griffin.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to child bouncer seats: U.S. Pat. No. 5411315 to Greenwood, U.S. Pat. No. 2691410 to Boucher, U.S. Pat. No. 5460430 to Miga, Jr. et al., U.S. Pat. No. 1641952 to Abraham, U.S. Pat. No. 2628666 to Hall.

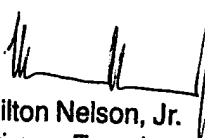
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

August 21, 2002



Milton Nelson, Jr.
Primary Examiner